

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

MCAIRLAIDS, INC.,)	
)	
Plaintiff,)	
)	Civil Action No. 7:13cv193
v.)	
)	
KIMBERLY-CLARK CORPORATION, et al.,)	By: Hon. Michael F. Urbanski
)	United States District Judge
Defendants.)	

AMENDED SCHEDULING ORDER

The court proposes the following as a pretrial scheduling order pursuant to Federal Rule of Civil Procedure 16(b). If no party requests changes within fourteen (14) days, it will constitute the scheduling order in this case. The court may amend the order on its own motion, or the parties may amend the order's disclosure and discovery provisions by submitting an agreed written plan that satisfies the requirements of Rule 26(f).

Summary

TRIAL DATE: May 11 – 29, 2015 (Jury Trial)
9:30 a.m.

PLACE: UNITED STATES DISTRICT COURT
210 Franklin Road, SW
Roanoke, VA 24011

1. The timing and sequence of discovery and proceedings shall occur in accordance with the attached proposed discovery and pretrial schedule.

2. The court hears motions and conducts pretrial conferences in civil cases on **Motions Day, which is held on Fridays in Roanoke.** Should the parties wish to schedule such a hearing in this matter, they shall confer as to each party's availability and contact Sue DePuy, Judicial Assistant, at (540) 857-5124 to schedule a hearing for the first available Motions Day.

Trial and Settlement

3. This case is set for a jury trial, scheduled to begin at 9:30 am on May 11, 2015.
4. Proposed jury instructions and special interrogatories must be filed electronically via CM/ECF at least seven (7) days prior to trial. The parties also should email two versions (one with citations and one without) of the proposed jury instructions and special interrogatories in Word format to urbanski.ecf@vawd.uscourts.gov, and copy opposing counsel.
5. Motions in limine, including motions objecting to introduction of deposition testimony and trial exhibits, must be filed at least thirty (30) days prior to trial.
6. If the case settles before trial and the court does not receive a proposed final order within thirty (30) days after the court received oral or written notification of the settlement, the court will dismiss the case with prejudice and retain jurisdiction to enforce the settlement if any party so moves within sixty (60) days of the entry of the dismissal order.

Motions

7. A supporting brief must accompany all pretrial motions, unless the motion contains the legal argument necessary to support it or is certified to be unopposed.
8. If any motion, properly filed and briefed, is to be opposed, a brief in opposition must be filed within fourteen (14) days of the date of service of the movant's brief (or within fourteen (14) days of this order if a motion and supporting brief were served before this order). Except for good cause shown, if a brief opposing a motion is not timely filed, the court will consider the motion to be unopposed. If a moving party desires to submit a reply brief, it must be filed within seven (7) days of the date of service of the brief opposing the motion. A surreply brief may not be filed without prior leave of the court.
9. Exclusive of any accompanying exhibits, a brief may not exceed twenty-five (25) pages in length using standard margins, double-spaced lines, and a font no smaller than 12-point Garamond,

unless the filing party first obtains leave of the court after showing good cause why a longer brief is necessary.

10. When a dispositive motion, together with its supporting brief and exhibits, consists of fifty (50) or more pages, the filing party must send a paper courtesy copy of the documents to the chambers of the presiding Judge at 210 Franklin Road, SW., Suite 350, Roanoke, VA 24011-2208.

11. No motion, brief, or exhibit may be filed under seal, except as allowed by the mandatory provisions of Western District of Virginia General Local Rule 9. The requirements of General Local Rule 9 may not be modified by a stipulated protective order or other agreement of the parties.

12. All nondispositive pretrial motions and issues, except motions in limine, are hereby referred to United States Magistrate Judge Robert S. Ballou pursuant to 28 U.S.C. § 636(b)(1)(A). Hearings on motions before Judge Ballou are scheduled by contacting Judge Ballou's Chambers at 540-857-5158.

13. If any party desires a hearing on any dispositive motion or appeal of a nondispositive motion referred to the United States Magistrate Judge, then no later than fourteen (14) days after the filing of the last brief on the motion, that party must contact Sue DePuy, Judicial Assistant, to set a hearing date on an available Motions Day. If no hearing on the motion is necessary, the moving party must file a notice that the motion is ripe for decision, no later than fourteen (14) days after the filing of the last brief on the motion. In any event, if within forty-five (45) days of the filing of any pretrial motion, no party has scheduled the motion for hearing or advised the court that the motion is ripe for decision, the court may deny the motion with or without prejudice.

14. Nondispositive motions, including motions for enlargement of time, whether or not opposed, may be acted upon at any time by the court, without awaiting a response, and any party adversely affected by such action may request reconsideration, vacation or modification.

Witnesses

15. Expert witnesses who are retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony must prepare a written report that conforms to the requirements of Rule 26(a)(2)(B).

16. The parties shall exchange lists of trial exhibits to be used in their case-in-chief and witnesses they expect to call in their case-in-chief at trial no later than twenty-one (21) days prior to trial. For each witness, the list shall include the witness's name and address and a summary of the witness's anticipated testimony.

Settlement Conference / Mediation

17. Upon motion of any party, the court will refer the case to a magistrate judge to conduct a settlement conference / mediation.

It is so **ORDERED**.

Entered: June 2, 2014

/s/ Michael F. Urbanski

Michael F. Urbanski
United States District Judge

Joint Proposed Schedule
McAirlaids, Inc. v. Kimberly-Clark Corporation, *et al.*
Case No. 7:13-cv-00193-MFU-RSB

Event	Date
Rule 26(f) Conference Fact Discovery Commences	November 11, 2013
Rule 26(a)(1)(A) Initial Disclosures	November 20, 2013
Plaintiff's Infringement Contentions/Claim Chart	February 3, 2014
Defendants' Non-Infringement Contentions/Claim Chart and Invalidity Contentions/Claim Chart	March 7, 2014
Plaintiff's Validity Contentions/Claim Chart	April 4, 2014
Meet and Confers to Identify Claim Terms in Dispute	March 21, 2014, 2 pm EST April 8, 2014, 2 pm EST
Opening Claim Construction Briefs	April 17, 2014
Responsive Claim Construction Briefs	May 15, 2014
<i>Markman</i> Hearing	May 29, 2014-May 30, 2014
Rolling Production Starts	Week of June 9, 2014
Completed Document Production	September 1, 2014
Fact Discovery Closes	November 7, 2014

Expert Reports For Those Issues on Which a Party Carries the Burden of Proof	November 21, 2014
Rebuttal Expert Reports	December 15, 2014
Expert Discovery Closes	January 9, 2015
Dispositive/ <i>Daubert</i> Motions Filing Deadline	January 30, 2015
Dispositive/ <i>Daubert</i> Opposition Briefs	February 20, 2015
Dispositive/ <i>Daubert</i> Reply Briefs	March 2, 2015
Dispositive/ <i>Daubert</i> Motions Hearing	March 12, 2015 at 9:30 a.m.
Final Pretrial Conference	April 20, 2015 at 9:30 a.m.
Trial Commences	May 11, 2015-May 29, 2015